

109th Congress
House Judiciary Committee, Subcommittee on the Constitution
Oversight hearing Tuesday, July 19, 2005, 2:00 p.m.

Can Congress Create A Race-Based Government?: The Constitutionality of
H.R.309/S.147, the Native Hawaiian Government Reorganization Act of 2005
("Akaka Bill")

Testimony by H. William Burgess on his own behalf and on behalf of Aloha for All¹

Aloha and good afternoon.

I am an attorney who practiced law in Hawaii for 35 years until I retired in 1994. For the last seven years I have been advocating and litigating for the basic democratic principle of equality under the law.

I know that Chairman Sensenbrenner has been concerned about this bill for some time. In July 2001, he said in his letter to Speaker Hastert , "the primary purpose of the Akaka bill is to establish a separate government for a particular race of people called "Native Hawaiians." The **many** people in Hawaii who oppose the bill² are glad that the Judiciary Committee's particular expertise on civil-liberties issues is now being called into action.

Background of the Akaka bill. The original version of S. 147, commonly referred to as the "Akaka bill", was first introduced in the year 2000 shortly after the Supreme Court, in *Rice v. Cayetano*, struck down the racial restriction on voting for the Office of Hawaiian Affairs. Because that decision threatened many other laws and programs for the "benefit" of Hawaiians, Senator Akaka with Senator Inouye's endorsement, proposed candidly to circumvent the Supreme Court's decision by having Congress "recognize" Hawaiians (defined substantially the same way the Supreme Court had held in *Rice* to be "racial") as the equivalent of an Indian tribe.

1. Aloha for All, is a multi-ethnic group of men and women, all residents, taxpayers and property owners in Hawaii who believe that Aloha is for everyone and every citizen is entitled to the equal protection of the laws without regard to her or his ancestry. For further information about the Akaka bill see: <http://www.aloha4all.org> (click on Q&A's) and <http://www.angelfire.com/hi2/hawaiiansovereignty/OpposeAkakaBill.html> or email hwburgess@hawaii.rr.com .

2. Hawaii residents oppose the bill by a margin of 2 to 1. The comprehensive statewide telephone survey just completed shows 67% responding to the question are against the Akaka bill.

The bill encountered resistance and did not pass in 2000 or subsequently. (It did pass a sparsely attended House in 2000 when Representative Abercrombie included it in a vote on non-controversial items.) Efforts to attach it as a rider to appropriations bills in 2000, 2001 and 2004 were defeated. Hawaii's political leaders have resubmitted the bill to the 109th Congress as S. 147 and H.R. 309. It is expected to reach the Senate floor before August 7, 2005,

A radical change in existing law. Although the proponents assert the bill will simply give Native Hawaiians "parity" with the Federal Government's treatment of American Indians and Alaska Natives, the bill would in reality make a radical change in existing law. The bill would give Native Hawaiians, merely because of their ancestry, something no American Indian has: the right to create the equivalent of a tribe where none now exists.

For Native Americans, ancestry alone confers no special status. Membership in a tribe that has existed continuously is required. According to Census 2000 there are over 4 million people with some Native American ancestry. But less than 2 million of them are members of recognized tribes and only those recognized tribes can have a government-to-government relationship with the United States.

Congress may "acknowledge" or "recognize" groups which have existed as tribes, i.e., autonomous quasi-sovereign governing entities, continuously from historic times to the present (25 C.F.R. 83.7) but it has no power to create a tribe arbitrarily. (*U.S. v. Sandoval*, 231 U.S. 28 (1913)). One D.O.J. attorney put it succinctly, "We don't create tribes out of thin air."³

In 1790 (20 years before 1810 when he unified the Hawaiian islands) Kamehameha the Great brought John Young and Isaac Davis on to join his forces and welcomed them into his family. Non-natives thereafter continued to intermarry, assimilate and contribute to the governance under the great King and under every subsequent government of Hawaii since then, both in high governmental positions as cabinet members, judges, elected legislators, and as ordinary citizens.

Unlike the history of Native Americans, there has never been in Hawaii, even during the years of the Kingdom, any "tribe" or government of any kind for Native Hawaiians separate from the government of the rest of Hawaii's citizens. The Hawaiians-only nation the Akaka bill proposes to "reorganize" has never existed. See Patrick W. Hanifin's *To*

3. *Connecticut v. Babbitt*, U.S. Court of Appeals, Second Circuit, January 6, 2000. Alice Thurston arguing on behalf of the Interior Secretary, "When the Department of Interior recognizes tribes, it is not saying, 'You are a tribe.' It is saying, 'We recognize that your sovereignty exists.' We don't create tribes out of thin air." *Without Reservation*, Benedict, page 352.

Dwell on the Earth in Unity: Rice, Arakaki, and the Growth of Citizenship and Voting Rights in Hawaii. <http://www.angelfire.com/hi2/hawaiiansovereignty/HanifinCitizen.pdf>

Our friends, neighbors, fellow professionals, judges, political leaders. aunts, uncles, nieces, nephews, calabash cousins, spouses and loved ones of Hawaiian ancestry are governed by the same federal, state and local governments as the rest of us. That is why Congress cannot use laws applicable to Indian tribes to create a new government in Hawaii.

Sen. Inouye, in his remarks on introduction of S. 147/H.R.309 at 151 Congressional Record 450 (Senate, Tuesday, January 25, 2005) concedes that federal Indian law does not provide the authority for Congress to create a Native Hawaiian governing entity.

"Because the Native Hawaiian government is not an Indian tribe, the body of Federal Indian law that would otherwise customarily apply when the United States extends Federal recognition to an Indian tribal group does not apply."

"That is why concerns which are premised on the manner in which Federal Indian law provides for the respective governmental authorities of the state governments and Indian tribal governments simply don't apply in Hawaii."

There being no tribe, the Constitution applies. The Akaka bill stumbles over the Constitution virtually every step it takes.

- As soon as the bill is enacted, superior political rights are granted to Native Hawaiians, defined by ancestry: §7(a) The U.S. is deemed to have recognized the right of Native Hawaiians to form their own new government and to adopt its organic governing documents. No one else in the United States has that right. This creates a hereditary aristocracy in violation of Article I, Sec. 9, U.S. Const. "No Title of Nobility shall be granted by the United States."

- Also, under §8(a) upon enactment, the delegation by the U.S. of authority to the State of Hawaii to "address the conditions of the indigenous, native people of Hawaii" in the Admission Act "is reaffirmed." This delegation to the State of authority to single out one ancestral group for special privilege would also seem to violate the prohibition against hereditary aristocracy. The Constitution forbids the United States from granting titles of nobility itself. That must also preclude the United States from authorizing states to bestow hereditary privilege.

- §7(b)(2)(A)&(B) Requires the Secretary of the DOI to appoint a commission of 9 members who "shall be Native Hawaiian." Restricting federal appointments based on race would violate the Equal Protection clause of the Fifth Amendment, among other laws, and would require the Secretary to violate her oath to uphold the Constitution.

- §7(c) requires the Commission to prepare a roll of adult Native Hawaiians and the Secretary to publish the racially restricted roll in the Federal Register and thereafter update it. Same Constitutional violations as immediately above.
- §7(c)(2) Persons on the roll may develop the criteria and structure of an Interim Governing Council and elect members from the roll to that Council. Racial restrictions on electors and upon candidates both violate the Fifteenth Amendment and the Voting Rights Act.
- §7(c)(2)(B)(iii)(I) The Council may conduct a referendum among those on the roll to determine the proposed elements of the organic governing documents of the Native Hawaiian governing entity. Racial restrictions on persons allowed to vote in the referendum would violate the 15th Amendment and the Voting Rights Act.
- §7(c)(2)(B)(iii)(IV) Based on the referendum, the Council may develop proposed organic documents and hold elections by persons on the roll to ratify them. This would be the third racially restricted election and third violation of the 15th Amendment and the Voting Rights Act.
- §7(c)(4)(A) Requires the Secretary to certify that the organic governing documents comply with 7 listed requirements. Use of the roll to make the certification would violate the Equal Protection clause of the Fifth Amendment, among other laws, and would, again, require the Secretary to violate her oath to uphold the Constitution.
- §7(c)(5) Once the Secretary issues the certification, the Council may hold elections of the officers of the new government. (If these elections restrict the right to vote based on race, as seems very likely) they would violate the 15th Amendment and the Voting Rights Act.)
- §7(c) Upon the election of the officers, the U.S., without any further action of Congress or the Executive branch, “reaffirms the political and legal relationship between the U.S. and the Native Hawaiian governing entity” and recognizes the Native Hawaiian governing body as the “representative governing body of the Native Hawaiian people.” This would violate the Equal Protection clause of the 5th and 14th Amendments by giving one racial group political power and status and their own sovereign government. These special relationships with the United States are denied to any other citizens.
- §8(b) The 3 governments may then negotiate an agreement for:
 - transfer of lands, natural resources & other assets; and
 - delegation of governmental power & authority to the new government; and
 - exercise of civil & criminal jurisdiction by the new government; and
 - “residual responsibilities” of the US & State of Hawaii to the new

government.

This carte blanche grant of authority to officials of the State and Federal governments to agree to give away public lands, natural resources and other assets to the new government, without receiving anything in return, is beyond all existing constitutional limitations on the power of the Federal and State of Hawaii executive branches. Even more extreme is the authority to surrender the sovereignty and jurisdiction of the State of Hawaii over some or all of the lands and surrounding waters of some or all of the islands of the State of Hawaii and over some or all of the people of Hawaii, boggles the mind. Likewise the general power to commit the Federal and State governments to “residual responsibilities” to the new Native Hawaiian government.

- §8(b)(2) The 3 governments may, but are not required to, submit to Congress and to the Hawaii State Governor and legislature, amendments to federal and state laws that will enable implementation of the agreement. Treaties with foreign governments require the approval of 2/3rd of the Senate. Constitutional amendments require the consent of the citizens. But the Akaka bill does not require the consent of the citizens of Hawaii or of Congress or of the State of Hawaii legislature to the terms of the agreement. Under the bill, the only mention is that the parties **may** recommend amendments to implement the terms they have agreed to.

Given the dynamics at the bargaining table created by the bill: where the State officials are driven by the same urge they now exhibit, to curry favor with what they view as the “swing” vote; and Federal officials are perhaps constrained with a similar inclination; and the new Native Hawaiian government officials have the duty to their constituents to demand the maximum; it is not likely that the agreement reached will be moderate or that any review by Congress or the Hawaii legislature will be sought if it can be avoided. More likely is that the State will proceed under the authority of the Akaka bill to promptly implement whatever deal has been made.

The myth of past injustices and economic deprivations. Contrary to the claims of the bill supporters, the U.S. took no lands from Hawaiians at the time of the 1893 revolution or the 1898 Annexation (or at any other time) and it did not deprive them of sovereignty. As part of the Annexation Act, the U.S. provided compensation by assuming the debts of about \$4 million which had been incurred by the Kingdom. The lands ceded to the U.S. were government lands under the Kingdom held for the benefit of all citizens without regard to race. They still are. Private land titles were unaffected by the overthrow or annexation. Upon annexation, ordinary Hawaiians became full citizens of the U.S. with more freedom, security, opportunity for prosperity and sovereignty than they ever had under the Kingdom.

Nor do Native Hawaiians suffer from the grinding poverty of Native American tribes. The Senate Indian Affairs Committee’s March 3, 2004 Views and Estimates of the 2005 budget request notes that “the vast majority of Native economies are moribund” (page 3)

“with unemployment averaging 45%” and “per capita income for Indians averages \$8,284.” (page 4).

By contrast Census 2000 shows per capita income for Native Hawaiians in Hawaii at \$14,199 and median family income of \$49,282. For the 60,000 Native Hawaiians residing in California, where they are free from the incentive-smothering entitlement programs provided in Hawaii, the per capita income of Native Hawaiians is \$19,881 and median family income is \$55,770. Striking evidence that Native Hawaiians are fully capable of prospering, without being wards of the DOI and without entitlements from Hawaii, is shown in the Census 2000 reports of median per capita income of Male, full time, year round Native Hawaiian workers: \$33,258 in Hawaii and \$38,997 in California.

Hawaiians today are no different, in any constitutionally significant way, from any other ethnic group in Hawaii’s multi-ethnic, intermarried, integrated society. Like all the rest of us, some do well, some don’t and most are somewhere in between.

Rejection of democracy and Aloha. Today the State of Hawai’i is, by law as well as by aspiration, a multiracial, thoroughly integrated state. The Akaka bill is a frontal assault on both Aloha and the American ideal of equality under the law. It would elevate one racial group to the status of a hereditary elite to be supported by citizens who are not of the favored race. As U.S. District Judge Helen Gillmor said in *Arakaki I*, "This Court is mindful that ours is a political system that strives to govern its citizens as individuals rather than as groups. The Supreme Court's brightest moments have affirmed this idea" (citing *Brown v. Board of Education* and other cases); "while its darkest moments have rejected this concept" (citing *Dred Scott*, *Plessy v. Ferguson*, *Bradwell v. Illinois* and *Korematsu*).

See Paul Sullivan's *Killing Aloha, The Native Hawaiian Recognition Bill is wrong for Native Hawaiians, wrong for the State of Hawaii and wrong for the United States* with a comprehensive section-by-section analysis of the bill, <http://www.angelfire.com/hi5/bigfiles2/AkakaSullivan012505.pdf>.

Keep Hawaii one state indivisible. Carving up Hawaii into separate sovereign enclaves would hurt all of us, whether we are of Hawaiian or any other ancestry. A house divided against itself cannot stand. The Constitution “looks to an indestructible union, composed of indestructible States.” *Texas v. White*, 7 Wallace 700 (1869).

Please say yes to equality under the law. Reject H.R. 309. Mahalo,

Honolulu, Hawaii July 14, 2005.

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HI - AKAKA BILL - SURVEY - 2

KEY:

Y = YES

N = NO

? = UNDECIDED

S = SKIP

U = UNKNOWN (DNU MESSAGE PLAYS ONCE AND IF THERE IS NO INTELLIGIBLE RESPONSE THE CALL TERMINATES.)

DNU = DID NOT UNDERSTAND MESSAGE

= NEXT SEGMENT THAT DISPLAYS UPON RECEIVING A PARTICULAR RESPONSE. FOR EXAMPLE, Y = 3 MEANS ON YES GO TO SEGMENT 3.

1 Registered? - (YES, NO)

THIS IS FEC RESEARCH WITH A 45 SECOND PUBLIC SURVEY. ARE YOU REGISTERED TO VOTE IN HAWAII?

Y: 2
N: 2
U: 2
DNU1: 12

2 Support Excise Tax Increase of \$450 per Year? - (YES, NO)

YOUR OPINIONS MATTER. PLEASE TAKE THE TIME TO ANSWER THE FOLLOWING 8 QUESTIONS. DO YOU SUPPORT THE PROPOSED INCREASE IN THE STATE EXCISE TAX THAT WILL COST THE AVERAGE HAWAII FAMILY AN ESTIMATED \$450.00 PER YEAR?

Y: 3
N: 3
U: 3
DNU1: 12

3 Support Racial Preferences? - (YES, NO)

DO YOU SUPPORT LAWS THAT PROVIDE PREFERENCES FOR PEOPLE GROUPS BASED ON THEIR RACE?

Y: 4
N: 4
U: 4
DNU1: 12

4 Support Akaka Bill? - (YES, NO)

THE AKAKA BILL, NOW PENDING IN CONGRESS, WOULD ALLOW NATIVE HAWAIIANS TO CREATE THEIR OWN GOVERNMENT NOT SUBJECT TO ALL THE SAME LAWS, REGULATIONS AND TAXES THAT APPLY TO OTHER CITIZENS OF HAWAII. DO YOU WANT CONGRESS TO APPROVE THE AKAKA BILL?

Y: 5
N: 5
U: 5
DNU1: 12

5 Less Likely to Support Akaka Bill Supporter? - (YES, NO)

WOULD YOU BE LESS LIKELY TO VOTE FOR AN ELECTED OFFICIAL WHO SUPPORTS THE AKAKA BILL?

Y: 6
N: 6
U: 6
DNU1: 12
DNU2: 12

6 Native Hawaiian? - (YES, NO)

DO YOU CONSIDER YOURSELF TO BE A NATIVE HAWAIIAN?

Y: 7
N: 7
U: 0
DNU1: 13
DNU2: 14

7 Republican? - (YES, NO)

DO YOU CONSIDER YOURSELF TO BE A REPUBLICAN?

Y: 9
N: 8
U: 8

8 Democrat? - (YES, NO)

DO YOU CONSIDER YOURSELF TO BE A DEMOCRAT?

Y: 9
N: 9
U: 9

9 Male? - (YES, NO)

ARE YOU MALE?

Y: 10

N: 10

U: 10

10 50+ - (YES, NO)

ARE YOU 50 YEARS OF AGE OR OLDER?

Y: 11

N: 11

U: 11

11 Thank You. Goodbye - (PLAY ONLY)

THANK YOU FOR YOUR TIME AND VIEWS. THIS SURVEY WAS CONDUCTED BY FEC RESEARCH. GOODBYE. 703/857-2152

S: 0

12 DNU - (DNU PROMPT)

PLEASE SAY, YES, NO OR REPEAT, NOW.

13 DNU1 - (DNU PROMPT)

THIS SURVEY WILL END WITHOUT A YES, NO OR REPEAT NOW.

14 DNU2 - (DNU PROMPT)

THANK YOU FOR YOUR TIME AND VIEWS. THIS SURVEY WAS CONDUCTED BY FEC RESEARCH. GOODBYE. 703/857-2152

15 Ans-Device - (PLAY ONLY)

THIS WAS A POLITICAL SURVEY CALL. WE MAY CALL BACK LATER.

S: 0

HI - Akaka Bill - Survey - 2						
Segment	Total Plays	Yes	No	No Response	Responding Percent "Yes"	Responding Percent "No"
Registered? = Yes						
Registered?	20,358	20,358	-	-	100.00%	0.00%
Support Excise Tax Increase of \$450 per Year?	16,799	3,287	9,032	4,480	26.68%	73.32%
Support Racial Preferences?	14,604	2,130	9,677	2,797	18.04%	81.96%
Support Akaka Bill?	13,478	3,805	7,653	2,020	33.21%	66.79%
Less Likely to Support Akaka Bill Supporter?	13,002	5,187	6,366	1,449	44.90%	55.10%
Native Hawaiian?	12,641	2,168	9,074	1,399	19.28%	80.72%
Republican?	11,240	3,381	6,450	1,409	34.39%	65.61%
Democrat?	7,858	3,803	2,878	1,177	56.92%	43.08%
Male?	11,230	3,794	6,338	1,098	37.45%	62.55%
50+	11,214	5,754	3,377	2,083	63.02%	36.98%
Registered? = No						
Registered?	18,725	-	18,725	-	0.00%	100.00%
Support Excise Tax Increase of \$450 per Year?	9,413	707	3,236	5,470	17.93%	82.07%
Support Racial Preferences?	6,682	689	2,856	3,137	19.44%	80.56%
Support Akaka Bill?	5,460	1,026	2,327	2,107	30.60%	69.40%
Less Likely to Support Akaka Bill Supporter?	4,975	1,530	1,834	1,611	45.48%	54.52%
Native Hawaiian?	4,709	736	2,436	1,537	23.20%	76.80%
Republican?	3,171	802	1,747	622	31.46%	68.54%
Democrat?	2,369	730	1,127	512	39.31%	60.69%
Male?	3,160	1,228	1,429	503	46.22%	53.78%
50+	3,147	699	1,697	751	29.17%	70.83%

Segment	Total Plays	Yes	No	No Response	Responding Percent "Yes"	Responding Percent "No"
Support Excise Tax Increase of \$450 per Year? = Yes						
Registered?	4,242	3,287	707	248	82.30%	17.70%
Support Excise Tax Increase of \$450 per Year?	4,242	4,242	-	-	100.00%	0.00%
Support Racial Preferences?	4,204	1,098	2,618	488	29.55%	70.45%
Support Akaka Bill?	3,954	1,617	1,970	367	45.08%	54.92%
Less Likely to Support Akaka Bill Supporter?	3,825	1,437	2,186	202	39.66%	60.34%
Native Hawaiian?	3,727	597	2,896	234	17.09%	82.91%
Republican?	3,492	943	2,177	372	30.22%	69.78%
Democrat?	2,549	1,253	992	304	55.81%	44.19%
Male?	3,492	1,484	1,725	283	46.24%	53.76%
50+	3,487	1,785	1,173	529	60.34%	39.66%
Support Excise Tax Increase of \$450 per Year? = No						
Registered?	13,306	9,032	3,236	1,038	73.62%	26.38%
Support Excise Tax Increase of \$450 per Year?	13,306	-	13,306	-	0.00%	100.00%
Support Racial Preferences?	13,093	1,562	9,632	1,899	13.95%	86.05%
Support Akaka Bill?	12,063	3,064	7,748	1,251	28.34%	71.66%
Less Likely to Support Akaka Bill Supporter?	11,624	5,160	5,685	779	47.58%	52.42%
Native Hawaiian?	11,285	2,187	8,304	794	20.85%	79.15%
Republican?	10,490	3,152	5,883	1,455	34.89%	65.11%
Democrat?	7,337	3,154	2,975	1,208	51.46%	48.54%
Male?	10,478	3,474	5,873	1,131	37.17%	62.83%
50+	10,461	4,573	3,815	2,073	54.52%	45.48%

Segment	Total Plays	Yes	No	No Response	Responding Percent "Yes"	Responding Percent "No"
Support Racial Preferences? = Yes						
Registered?	3,022	2,130	689	203	75.56%	24.44%
Support Excise Tax Increase of \$450 per Year?	3,022	1,098	1,562	362	41.28%	58.72%
Support Racial Preferences?	3,022	3,022	-	-	100.00%	0.00%
Support Akaka Bill?	2,933	1,748	880	305	66.51%	33.49%
Less Likely to Support Akaka Bill Supporter?	2,820	818	1,840	162	30.78%	69.22%
Native Hawaiian?	2,750	873	1,685	192	34.13%	65.87%
Republican?	2,557	640	1,560	357	29.09%	70.91%
Democrat?	1,917	939	684	294	57.86%	42.14%
Male?	2,554	930	1,325	299	41.24%	58.76%
50+	2,550	983	1,092	475	47.37%	52.63%
Support Racial Preferences? = No						
Registered?	13,427	9,677	2,856	894	77.21%	22.79%
Support Excise Tax Increase of \$450 per Year?	13,427	2,618	9,632	1,177	21.37%	78.63%
Support Racial Preferences?	13,427	-	13,427	-	0.00%	100.00%
Support Akaka Bill?	13,050	2,868	8,944	1,238	24.28%	75.72%
Less Likely to Support Akaka Bill Supporter?	12,625	5,832	6,019	774	49.21%	50.79%
Native Hawaiian?	12,252	1,930	9,560	762	16.80%	83.20%
Republican?	11,489	3,528	6,457	1,504	35.33%	64.67%
Democrat?	7,960	3,448	3,255	1,257	51.44%	48.56%
Male?	11,475	4,054	6,282	1,139	39.22%	60.78%
50+	11,456	5,368	3,906	2,182	57.88%	42.12%

Segment	Total Plays	Yes	No	No Response	Responding Percent "Yes"	Responding Percent "No"
Support Akaka Bill? = Yes						
Registered?	5,197	3,805	1,026	366	78.76%	21.24%
Support Excise Tax Increase of \$450 per Year?	5,197	1,617	3,064	516	34.54%	65.46%
Support Racial Preferences?	5,197	1,748	2,868	581	37.87%	62.13%
Support Akaka Bill?	5,197	5,197	-	-	100.00%	0.00%
Less Likely to Support Akaka Bill Supporter?	5,148	1,111	3,817	220	22.54%	77.46%
Native Hawaiian?	5,050	1,518	3,225	307	32.01%	67.99%
Republican?	4,743	994	3,126	623	24.13%	75.87%
Democrat?	3,749	1,823	1,389	537	56.76%	43.24%
Male?	4,739	1,851	2,383	505	43.72%	56.28%
50+	4,730	2,062	1,824	844	53.06%	46.94%
Support Akaka Bill? = No						
Registered?	10,694	7,653	2,327	714	76.68%	23.32%
Support Excise Tax Increase of \$450 per Year?	10,694	1,970	7,748	976	20.27%	79.73%
Support Racial Preferences?	10,694	880	8,944	870	8.96%	91.04%
Support Akaka Bill?	10,694	-	10,694	-	0.00%	100.00%
Less Likely to Support Akaka Bill Supporter?	10,592	5,744	4,282	566	57.29%	42.71%
Native Hawaiian?	10,310	1,375	8,253	682	14.28%	85.72%
Republican?	9,626	3,220	5,065	1,341	38.87%	61.13%
Democrat?	6,405	2,708	2,620	1,077	50.83%	49.17%
Male?	9,614	3,237	5,344	1,033	37.72%	62.28%
50+	9,602	4,386	3,268	1,948	57.30%	42.70%

Segment	Total Plays	Yes	No	No Response	Responding Percent "Yes"	Responding Percent "No"
Less Likely to Support Akaka Bill Supporter? = Yes						
Registered?	7,195	5,187	1,530	478	77.22%	22.78%
Support Excise Tax Increase of \$450 per Year?	7,195	1,437	5,160	598	21.78%	78.22%
Support Racial Preferences?	7,195	818	5,832	545	12.30%	87.70%
Support Akaka Bill?	7,195	1,111	5,744	340	16.21%	83.79%
Less Likely to Support Akaka Bill Supporter?	7,195	7,195	-	-	100.00%	0.00%
Native Hawaiian?	7,121	1,270	5,407	444	19.02%	80.98%
Republican?	6,676	2,554	3,242	880	44.06%	55.94%
Democrat?	4,122	1,834	1,624	664	53.04%	46.96%
Male?	6,674	2,483	3,558	633	41.10%	58.90%
50+	6,668	3,108	2,346	1,214	56.99%	43.01%
Less Likely to Support Akaka Bill Supporter? = No						
Registered?	8,808	6,366	1,834	608	77.63%	22.37%
Support Excise Tax Increase of \$450 per Year?	8,808	2,186	5,685	937	27.77%	72.23%
Support Racial Preferences?	8,808	1,840	6,019	949	23.41%	76.59%
Support Akaka Bill?	8,808	3,817	4,282	709	47.13%	52.87%
Less Likely to Support Akaka Bill Supporter?	8,808	-	8,808	-	0.00%	100.00%
Native Hawaiian?	8,683	1,743	6,330	610	21.59%	78.41%
Republican?	8,071	1,751	5,142	1,178	25.40%	74.60%
Democrat?	6,320	2,800	2,490	1,030	52.93%	47.07%
Male?	8,058	2,727	4,332	999	38.63%	61.37%
50+	8,044	3,467	2,867	1,710	54.74%	45.26%

Segment	Total Plays	Yes	No	No Response	Responding Percent "Yes"	Responding Percent "No"
Native Hawaiian? = Yes						
Registered?	3,176	2,168	736	272	74.66%	25.34%
Support Excise Tax Increase of \$450 per Year?	3,176	597	2,187	392	21.44%	78.56%
Support Racial Preferences?	3,176	873	1,930	373	31.15%	68.85%
Support Akaka Bill?	3,176	1,518	1,375	283	52.47%	47.53%
Less Likely to Support Akaka Bill Supporter?	3,176	1,270	1,743	163	42.15%	57.85%
Native Hawaiian?	3,176	3,176	-	-	100.00%	0.00%
Republican?	3,175	929	1,610	636	36.59%	63.41%
Democrat?	2,245	991	765	489	56.44%	43.56%
Male?	3,166	1,025	1,620	521	38.75%	61.25%
50+	3,155	1,087	1,189	879	47.76%	52.24%
Native Hawaiian? = No						
Registered?	12,228	9,074	2,436	718	78.84%	21.16%
Support Excise Tax Increase of \$450 per Year?	12,228	2,896	8,304	1,028	25.86%	74.14%
Support Racial Preferences?	12,228	1,685	9,560	983	14.98%	85.02%
Support Akaka Bill?	12,228	3,225	8,253	750	28.10%	71.90%
Less Likely to Support Akaka Bill Supporter?	12,228	5,407	6,330	491	46.07%	53.93%
Native Hawaiian?	12,228	-	12,228	-	0.00%	100.00%
Republican?	12,226	3,479	7,061	1,686	33.01%	66.99%
Democrat?	8,747	3,793	3,502	1,452	51.99%	48.01%
Male?	12,210	4,326	6,558	1,326	39.75%	60.25%
50+	12,187	5,686	4,173	2,328	57.67%	42.33%

Segment	Total Plays	Yes	No	No Response	Responding Percent "Yes"	Responding Percent "No"
Republican? = Yes						
Registered?	4,408	3,381	802	225	80.83%	19.17%
Support Excise Tax Increase of \$450 per Year?	4,408	943	3,152	313	23.03%	76.97%
Support Racial Preferences?	4,408	640	3,528	240	15.36%	84.64%
Support Akaka Bill?	4,408	994	3,220	194	23.59%	76.41%
Less Likely to Support Akaka Bill Supporter?	4,408	2,554	1,751	103	59.33%	40.67%
Native Hawaiian?	4,408	929	3,479	-	21.08%	78.92%
Republican?	4,408	4,408	-	-	100.00%	0.00%
Male?	4,407	1,761	2,304	342	43.32%	56.68%
50+	4,406	2,022	1,670	714	54.77%	45.23%
Republican? = No						
Registered?	8,671	6,450	1,747	474	78.69%	21.31%
Support Excise Tax Increase of \$450 per Year?	8,671	2,177	5,883	611	27.01%	72.99%
Support Racial Preferences?	8,671	1,560	6,457	654	19.46%	80.54%
Support Akaka Bill?	8,671	3,126	5,065	480	38.16%	61.84%
Less Likely to Support Akaka Bill Supporter?	8,671	3,242	5,142	287	38.67%	61.33%
Native Hawaiian?	8,671	1,610	7,061	-	18.57%	81.43%
Republican?	8,671	-	8,671	-	0.00%	100.00%
Democrat?	8,671	4,320	3,559	792	54.83%	45.17%
Male?	8,671	2,950	4,956	765	37.31%	62.69%
50+	8,667	4,040	3,056	1,571	56.93%	43.07%

Segment	Total Plays	Yes	No	No Response	Responding Percent "Yes"	Responding Percent "No"
Democrat? = Yes						
Registered?	4,784	3,803	730	251	83.90%	16.10%
Support Excise Tax Increase of \$450 per Year?	4,784	1,253	3,154	377	28.43%	71.57%
Support Racial Preferences?	4,784	939	3,448	397	21.40%	78.60%
Support Akaka Bill?	4,784	1,823	2,708	253	40.23%	59.77%
Less Likely to Support Akaka Bill Supporter?	4,784	1,834	2,800	150	39.58%	60.42%
Native Hawaiian?	4,784	991	3,793	-	20.71%	79.29%
Republican?	4,784	-	4,320	464	0.00%	100.00%
Democrat?	4,784	4,784	-	-	100.00%	0.00%
Male?	4,784	1,441	2,917	426	33.07%	66.93%
50+	4,783	2,265	1,578	940	58.94%	41.06%
Democrat? = No						
Registered?	4,267	2,878	1,127	262	71.86%	28.14%
Support Excise Tax Increase of \$450 per Year?	4,267	992	2,975	300	25.01%	74.99%
Support Racial Preferences?	4,267	684	3,255	328	17.36%	82.64%
Support Akaka Bill?	4,267	1,389	2,620	258	34.65%	65.35%
Less Likely to Support Akaka Bill Supporter?	4,267	1,624	2,490	153	39.47%	60.53%
Native Hawaiian?	4,267	765	3,502	-	17.93%	82.07%
Republican?	4,267	-	3,559	708	0.00%	100.00%
Democrat?	4,267	-	4,267	-	0.00%	100.00%
Male?	4,267	1,695	2,180	392	43.74%	56.26%
50+	4,267	1,924	1,614	729	54.38%	45.62%

Segment	Total Plays	Yes	No	No Response	Responding Percent "Yes"	Responding Percent "No"
Male? = Yes						
Registered?	5,351	3,794	1,228	329	75.55%	24.45%
Support Excise Tax Increase of \$450 per Year?	5,351	1,484	3,474	393	29.93%	70.07%
Support Racial Preferences?	5,351	930	4,054	367	18.66%	81.34%
Support Akaka Bill?	5,351	1,851	3,237	263	36.38%	63.62%
Less Likely to Support Akaka Bill Supporter?	5,351	2,483	2,727	141	47.66%	52.34%
Native Hawaiian?	5,351	1,025	4,326	-	19.16%	80.84%
Republican?	5,351	1,761	2,950	640	37.38%	62.62%
Democrat?	3,590	1,441	1,695	454	45.95%	54.05%
Male?	5,351	5,351	-	-	100.00%	0.00%
50+	5,351	2,533	1,946	872	56.55%	43.45%
Male? = No						
Registered?	8,178	6,338	1,429	411	81.60%	18.40%
Support Excise Tax Increase of \$450 per Year?	8,178	1,725	5,873	580	22.70%	77.30%
Support Racial Preferences?	8,178	1,325	6,282	571	17.42%	82.58%
Support Akaka Bill?	8,178	2,383	5,344	451	30.84%	69.16%
Less Likely to Support Akaka Bill Supporter?	8,178	3,558	4,332	288	45.10%	54.90%
Native Hawaiian?	8,178	1,620	6,558	-	19.81%	80.19%
Republican?	8,178	2,304	4,956	918	31.74%	68.26%
Democrat?	5,874	2,917	2,180	777	57.23%	42.77%
Male?	8,178	-	8,178	-	0.00%	100.00%
50+	8,178	3,813	3,060	1,305	55.48%	44.52%

Segment	Total Plays	Yes	No	No Response	Responding Percent "Yes"	Responding Percent "No"
50+ = Yes						
Registered?	6,773	5,754	699	320	89.17%	10.83%
Support Excise Tax Increase of \$450 per Year?	6,773	1,785	4,573	415	28.07%	71.93%
Support Racial Preferences?	6,773	983	5,368	422	15.48%	84.52%
Support Akaka Bill?	6,773	2,062	4,386	325	31.98%	68.02%
Less Likely to Support Akaka Bill Supporter?	6,773	3,108	3,467	198	47.27%	52.73%
Native Hawaiian?	6,773	1,087	5,686	-	16.05%	83.95%
Republican?	6,773	2,022	4,040	711	33.36%	66.64%
Democrat?	4,751	2,265	1,924	562	54.07%	45.93%
Male?	6,773	2,533	3,813	427	39.91%	60.09%
50+	6,773	6,773	-	-	100.00%	0.00%
50+ = No						
Registered?	5,362	3,377	1,697	288	66.55%	33.45%
Support Excise Tax Increase of \$450 per Year?	5,362	1,173	3,815	374	23.52%	76.48%
Support Racial Preferences?	5,362	1,092	3,906	364	21.85%	78.15%
Support Akaka Bill?	5,362	1,824	3,268	270	35.82%	64.18%
Less Likely to Support Akaka Bill Supporter?	5,362	2,346	2,867	149	45.00%	55.00%
Native Hawaiian?	5,362	1,189	4,173	-	22.17%	77.83%
Republican?	5,362	1,670	3,056	636	35.34%	64.66%
Democrat?	3,692	1,578	1,614	500	49.44%	50.56%
Male?	5,362	1,946	3,060	356	38.87%	61.13%
50+	5,362	-	5,362	-	0.00%	100.00%